

Case 9:21-cv-00174-MAC-ZJH Document 24 Filed 12/04/23 Page 1 of 2 PageID #: 110

EASTERN DISTRICT OF TEXAS

GREGORY CRAFT,

Plaintiff,

versus

TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, *et al.*,

Defendants.

CIVIL ACTION NO. 9:21-CV-174

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Gregory Craft, an inmate confined at the Eastham Unit, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends dismissing this action pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes plaintiff's objections are without merit.

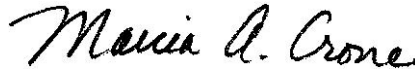
Plaintiff argues that 28 U.S.C. § 1915(g) violates his equal protection rights by infringing on his fundamental right of access to the courts. Plaintiff's argument, however, is contrary to Fifth Circuit law. "Section 1915(g) is a procedural statutory provision that does not affect a prisoner's substantive rights, and it does not block his or her access to the courts. It does not prevent a prisoner with three strikes from filing civil actions; it merely prohibits him from enjoying IFP status." *Cardenas v. Young*, 655 F. App'x 183, 188 (5th Cir. 2016) (citations and internal quotation marks omitted). "The Constitution only requires the waiver of filing fees in

criminal cases and civil proceedings implicating fundamental interests such as divorce proceedings and proceedings to terminate parental rights.” *Id.* Since, plaintiff’s civil action does not implicate a fundamental interest, section 1915(g) is not unconstitutional as applied to him. Thus, plaintiff’s objections are without merit.

ORDER

Accordingly, plaintiff’s objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge’s recommendation.

SIGNED at Beaumont, Texas, this 4th day of December, 2023.

Handwritten signature of Marcia A. Crone in black ink.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE